



Approved:    
SHIVA H. LOGARAJAH / KEVIN T. SULLIVAN  
Assistant United States Attorney

Before: THE HONORABLE JUDITH C. MCCARTHY  
United States Magistrate Judge  
Southern District of New York

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UNITED STATES OF AMERICA : COMPLAINT  
:   
- v.- : Violation of  
: 18 U.S.C. § 371  
JOHN DEPASQUALE :   
: COUNTY OF OFFENSE:  
Defendant. : WESTCHESTER  
:   
- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

GEORGE V. LANE, JR., being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE  
**(Firearms Trafficking Conspiracy)**

1. From at least on or about April 19, 2022 up to and including at least on or about April 27, 2022, in the Southern District of New York and elsewhere, JOHN DEPASQUALE, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, trafficking in firearms in violation of Title 18, United States Code, Section 922(a)(1)(A).

2. It was a part and an object of the conspiracy that JOHN DEPASQUALE, the defendant, and others known and unknown, not being licensed importers, licensed manufacturers, and licensed dealers of firearms within the meaning of Chapter 44, Title 18, United States Code, would and did willfully and knowingly engage in the business of dealing in firearms, and in the course of such business would and did ship, transport, and receive firearms in interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(a)(1)(A).

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about April 20, 2022, a co-conspirator (Suspect-1, as defined below) opened fire on a law enforcement officer in Yonkers, New York after law enforcement attempted to interdict members of the conspiracy.

b. On or about April 19, 2022, two co-conspirators, Bryce Martin ("MARTIN") and Xavier Simms ("SIMMS"),<sup>1</sup> traveled to New York State, specifically Yonkers, New York, from Georgia with multiple firearms for resale.

c. On or about April 18, 2022, MARTIN took several photos of firearms for resale and priced them.

d. On or about April 19, 2022, JOHN DEPASQUALE, the defendant, met with Suspect-1, MARTIN, and SIMMS and received multiple firearms to sell on consignment, which he further transferred to at least two other individuals.

e. On or about April 20, 2022, DEPASQUALE met with Suspect-1, MARTIN, and SIMMS and paid for the firearms received the previous day.

(Title 18, United States Code, Section 371.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

4. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and I have been personally involved in the investigation of this matter. This Affidavit is based upon my personal participation in the investigation of this matter, as well as on my conversations with other law enforcement agents, and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and

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<sup>1</sup> As explained further below, MARTIN and SIMMS have been arrested and charged in a separate complaint with conspiracy to commit firearms trafficking, in violation of Title 18, United States Code, Sections 371 and 922(a)(1)(A).

conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

**The April 20, 2022 Attempted Murder of a Federal Officer**

5. Based on my communications with other law enforcement officers and my participation in this investigation, I know, among other things, the following:

a. On or about April 20, 2022, a Task Force Officer ("Task Force Officer-1") and a Special Agent ("Agent-1") with the Federal Bureau of Investigation ("FBI") Westchester County Safe Streets Task Force (the "WSSTF") were investigating illegal firearms activity in the vicinity of Elm and Linden streets in Yonkers, New York.<sup>2</sup>

b. During the course of that investigation, Task Force Officer-1 and Agent-1 followed an individual ("Suspect-1") and others, including MARTIN and SIMMS, into a deli at the corner of Elm and Linden (the "Deli"). While inside the Deli, Suspect-1 pulled out and fired a gun (the "Discharged Firearm"), at close range, at Taskforce Officer-1, hitting Taskforce Officer-1 in the stomach (the "Attempted Murder").<sup>3</sup> After that, Agent-1 fired his gun at Suspect-1 and fatally wounded Suspect-1.

c. In the immediate aftermath of the Attempted Murder, MARTIN was detained with a loaded "ghost gun"-style firearm (the "Recovered Ghost Gun") on his person. Based on my training and experience, I know that "ghost guns" are easily assembled firearms that are designed to evade law enforcement detection.

d. In addition, two firearms were recovered at the back of the Deli in a bathroom area (the "Simms Firearms"). Based on my review of surveillance footage of the Attempted Murder from the Deli, I know that, immediately after the Attempted Murder, SIMMS -- who I recognize based off my review of his criminal history photographs and a distinctive luxury-branded satchel he had draped across his body -- ran to the back of the Deli and disposed of items in the back bathroom area. In a later *Mirandized*

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<sup>2</sup> The WSSTF is comprised of Special Agents of the FBI and Task Force Officers from local police departments across Westchester County. The WSSTF is responsible for investigating, among other things, illegal firearms possession and gang-related activity.

<sup>3</sup> Task Force Officer-1 is currently in serious but stable condition after the Attempted Murder.

statement, SIMMS admitted that the Simms Firearms, recovered from the Deli, were, in fact, his.

6. Based on my communications with other law enforcement officers and my participation in this investigation, I know, that MARTIN and SIMMS were detained after the Attempted Murder at the Deli and were ultimately federally arrested on or about April 20, 2022 and later charged in a complaint on or about April 21, 2022, with conspiracy to commit firearms trafficking, in violation of Title 18, United States Code, Sections 371 and 922(a)(1)(A). They were presented on or about April 21, 2022 before the Honorable Andrew E. Krause, United States Magistrate Judge, and ordered detained pending trial.

**Co-Conspirators' Travel to New York and  
Consignment Sale of Firearms to Individual-1**

7. Based on my communications with other law enforcement officers, I know that a review of criminal history records indicates that MARTIN and SIMMS, along with Suspect-1, are all residents of Georgia. As set forth below, I believe that all were members of a firearms trafficking conspiracy which trafficked firearms from Georgia into New York, at least some of which were then sold on consignment to JOHN DEPASQUALE, the defendant (the "Firearms Trafficking Conspiracy").

8. Based on my communications with other law enforcement officers and my participation in this investigation I know that, in a *Mirandized* post-arrest statement, MARTIN admitted to the following, in sum and substance:

a. MARTIN had traveled to New York from Georgia with SIMMS and Suspect-1 and accompanied Suspect-1 as he sold illegal firearms. They arrived in New York on or about April 19, 2022, the day before the Attempted Murder, and all stayed at the same address in Yonkers, New York ("Residence-1").<sup>4</sup>

b. Suspect-1 sold multiple firearms to another individual ("Individual-1") on or about April 19, 2022. Individual-1 did not pay at the time of the sale and needed time to sell some of the firearms before he could pay.

c. MARTIN, SIMMS, and Suspect-1 met with Individual-1 a day later, on or about April 20, 2022 -- i.e., the day of the Attempted Murder -- to collect payment. Based on my

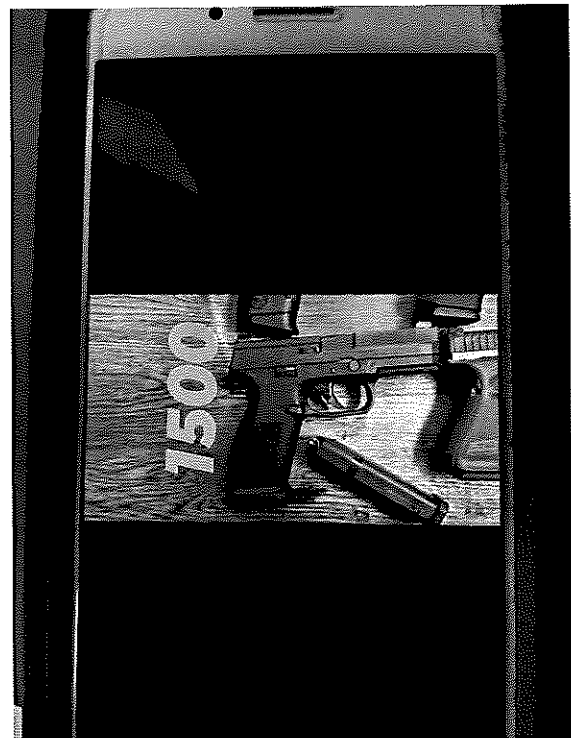
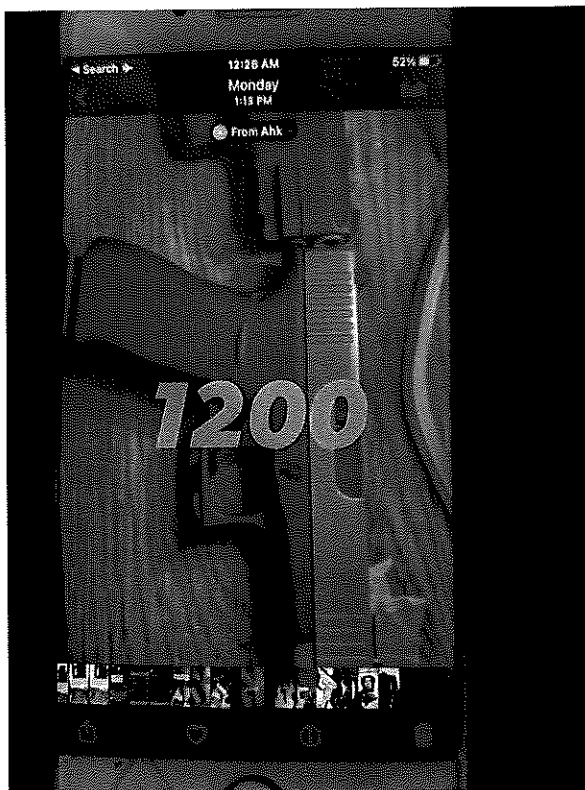
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<sup>4</sup> Law enforcement searched Residence-1 pursuant to a warrant and recovered Suspect-1's wallet as well as a box of .380 caliber style ammunition.

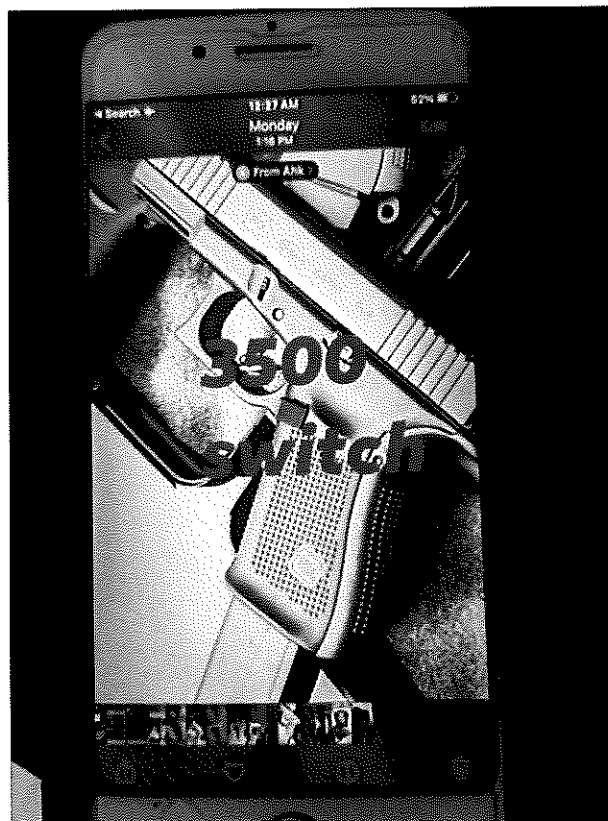
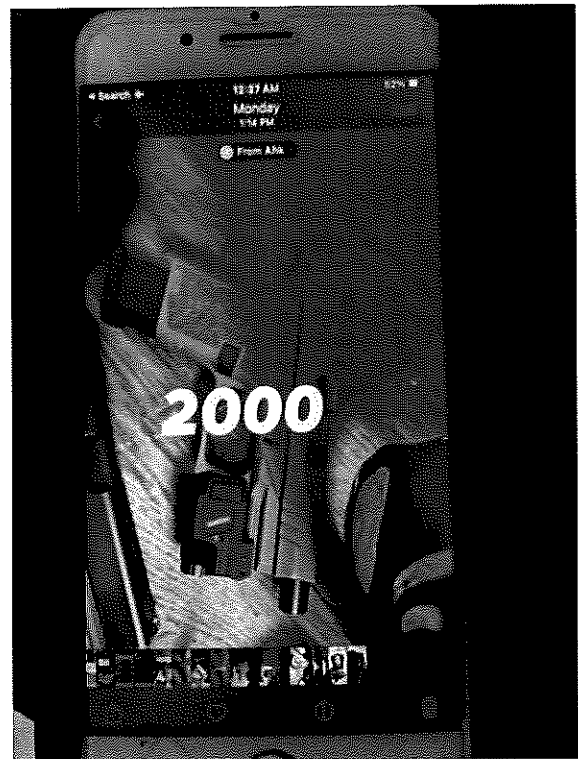
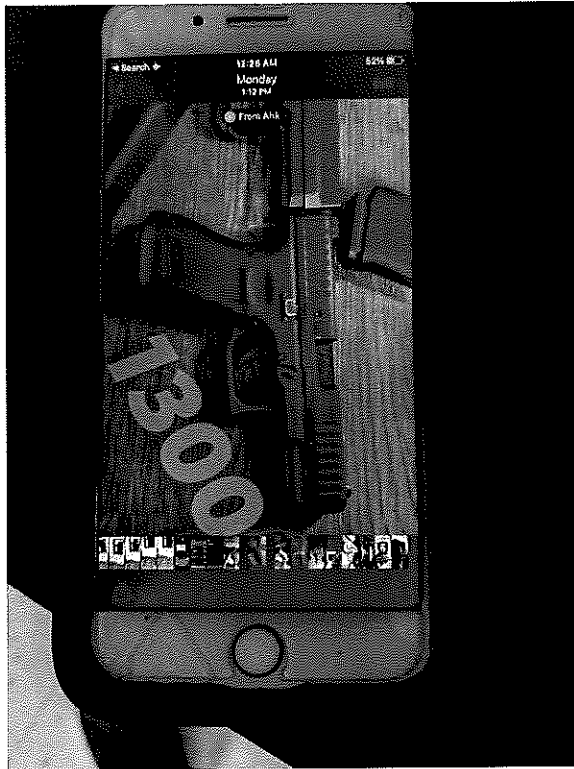
training and experience, this practice of selling goods and receiving payment later -- that is, selling on consignment -- is a practice that is common amongst traffickers who are part of the same trafficking conspiracy.

9. Based on my communications with other law enforcement officers and my participation in this investigation I know that MARTIN also consented to a search of his phone (the "Martin Cellphone"). Law enforcement recovered several photos of firearms, along with prices, as displayed below. Based on my review of the timestamps of the photos, they were taken on or about April 18, 2022 -- a day before MARTIN traveled to New York from Georgia and two days prior to the Attempted Murder. Based on my training and experience, I believe this is consistent with advertisement for illicit firearms traffickers typically place on social media and elsewhere on the Internet to sell their illegal firearms. The last picture displayed below is the same make and model of the Discharged Firearm. Moreover, the last picture is emblazoned with "Switch." Based on my training and experience, I believe the "Switch" caption is a reference to an aftermarket device, commonly referred to as a switch, that is added to a Glock semi-automatic handgun to make it a fully automatic, machine gun-style handgun.

(Photographs Recovered from the Martin Cellphone Below)

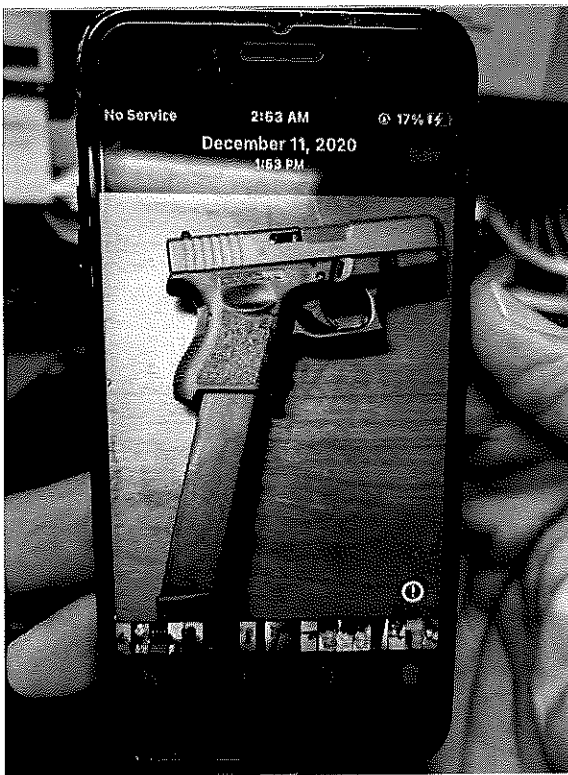


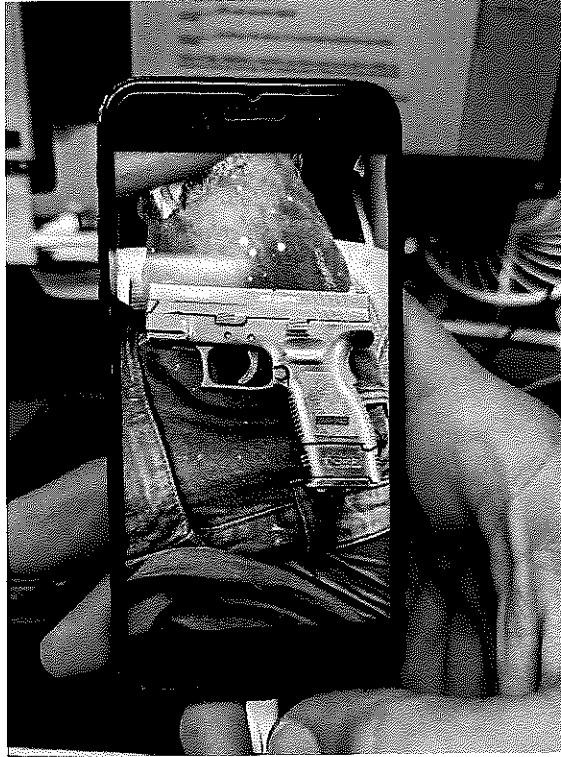




10. Based on my communications with other law enforcement officers and my participation in this investigation, I know that SIMMS also consented to a search of his cellphone (the "Simms Cellphone"). Based on my and other law enforcement officers' review of the contents of the Simms Cellphone, I know that there are several photos of firearms on display on the Simms Cellphone, from December 2020 onwards, including firearms with extended magazines and machine gun-style weapons as displayed below. Based on my training and experience, I believe the style of the photos is consistent with how illicit firearms traffickers would display their goods. Moreover, I know the variety and number of firearms on SIMMS Cellphone -- in addition to his admission of the possession of the Simms Firearms -- is consistent with the deep supply of firearms to which a firearms trafficker would typically have access.

(Photographs Recovered from the Simms Cellphone Below)





**Identification of Individual-1 as DEPASQUALE**

11. As set forth below, based on my review of surveillance video and my discussions with a Yonkers Police Detective ("YPD Detective") who has interacted with JOHN DEPASQUALE, the defendant -- and who reviewed stills of surveillance footage from April 19 and 20, 2022 from an apartment building (the "Apartment Building") where DEPASQUALE lives in a third-floor apartment (the "Apartment") -- I believe Individual-1, who MARTIN described selling firearms to, is JOHN DEPASQUALE, the defendant.<sup>5</sup> As described further below, I believe that DEPASQUALE did the following in connection with the Firearms Trafficking Conspiracy:

a. DEPASQUALE left the Apartment Building on April 19 with a distinctive camouflage duffel bag (the "Camo Bag") and traveled to a residence on Cliff Street in Yonkers, where he met with Suspect-1 -- i.e., "Residence-1" where MARTIN stated that SIMMS, Suspect-1, and himself were staying.

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<sup>5</sup> While DEPASQUALE is mostly masked while captured by surveillance cameras on April 19 and April 20, at various points in time, he pulls his mask down, and the YPD Detective was able to identify DEPASQUALE with his mask down. Moreover, Individual-1 was familiar to the YPD Detective as DEPASQUALE based on his stature and gait.



b. DEPASQUALE came back to the Apartment Building and entered the Apartment with the Camo Bag approximately 11 minutes after leaving Residence-1 where he met Suspect-1.

c. Approximately 38 minutes later, and less than an hour after meeting with Suspect-1, DEPASQUALE left the Apartment with the Camo Bag, exited the Apartment Building, and entered another vehicle with a firearm I believe he received after meeting with Suspect-1.

d. The next day, on April 20 -- approximately two hours before the Attempted Murder -- DEPASQUALE met with SIMMS, MARTIN, and Suspect-1 in a stairwell of the Apartment Building to pay for the firearms he received the day earlier on April 19.

*DEPASQUALE's Movements and Meeting with  
Suspect-1 on April 19, 2022*

12. Based on my review of surveillance video from various cameras in the Apartment Building, surveillance video from a camera that is across the street from and faces Residence-1, and my communications with other law enforcement officers, I have learned the following:

a. At approximately 1:43 p.m. on or about April 19, 2022, DEPASQUALE leaves the Apartment with a heavy black jacket on and with the Camo Bag on his back.

b. At approximately 1:44 p.m., DEPASQUALE enters a blue Tesla (the "Blue Tesla") across the street from the Building with the Camo Bag.

c. At approximately 1:58 p.m., a car which appears to be the Blue Tesla arrives in front of Residence-1 and an individual who I believe is Suspect-1 appears to be waiting outside of Residence-1.<sup>6</sup> An individual carrying what appears to be the Camo Bag exits what appears to be the Blue Tesla and greets Suspect-1. That individual and Suspect-1 both enter Residence-1. Because the individual arrives in what appears to be the Blue Tesla

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<sup>6</sup> I believe that the individual standing outside Residence-1 is Suspect-1 because that individual is wearing a light gray hoodie with a blue graphic at the center of it which is similar to what Suspect-1 was wearing at the time of the Attempted Murder. Moreover, MARTIN stated in his post-arrest *Mirandized* statement that Suspect-1 was staying at Residence-1 and a search of Residence-1 yielded Suspect-1's wallet and .380 caliber ammunition.

carrying what appears to be the Camo Bag, I believe that individual is DEPASQUALE.

d. At approximately 2:09 p.m. -- about 11 minutes later -- the individual who I believe is DEPASQUALE exits Residence-1 with a bag which appears to be the Camo Bag.

e. At approximately 2:16 p.m., the individual who I believe is DEPASQUALE -- carrying what appears to be the Camo Bag -- gets in another vehicle outside Residence-1.

f. At approximately 2:27 p.m., a surveillance camera outside of the Apartment Building captures DEPASQUALE, with the Camo Bag approaching the Apartment Building and an interior surveillance camera captures DEPASQUALE climbing stairs to the third floor.

g. At approximately, 3:05 p.m., about 38 minutes later, an interior surveillance camera on the third floor of the Apartment Building captures DEPASQUALE leaving the Apartment. Seconds later, DEPASQUALE is captured by an exterior surveillance camera on the Apartment Building entering the front passenger door of a black Kia (the "Black Kia"), with the Camo Bag, which was parked outside the Apartment Building. Within a minute of entering the Black Kia, DEPASQUALE is seen in the passenger seat with a firearm and shows it the driver of the Black Kia.

h. At approximately 3:07 p.m., the Black Kia departs from the Apartment Building. At approximately 3:37 p.m., an exterior surveillance camera from the Apartment Building captures the Black Kia, again, pulling in front of the Apartment Building. An interior surveillance camera on the third floor of the Apartment Building shows DEPASQUALE re-entering the Apartment at approximately 3:40 p.m.

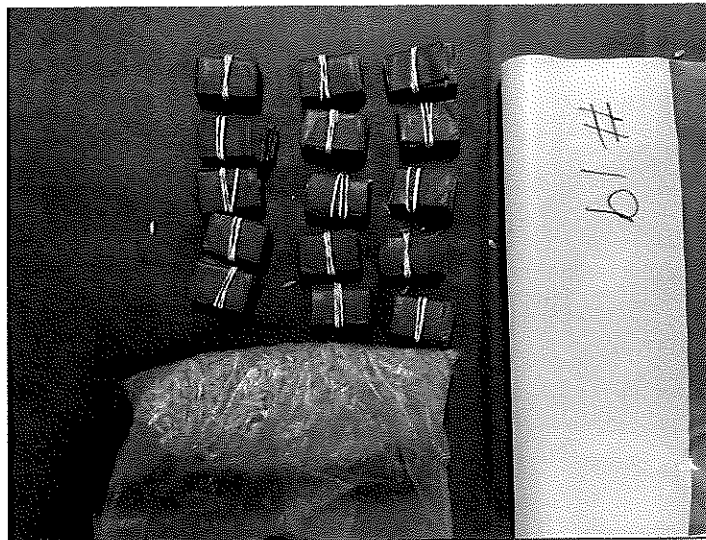
*DEPASQUALE's Meeting with and Payment to  
Suspect-1, MARTIN, and SIMMS in the Apartment Building  
Hours Before the Attempted Murder*

13. Based on my review of surveillance video from various cameras in the Apartment Building and my communications with other law enforcement officers, I have learned that on or about April 20, 2022, at approximately 12:31 p.m. -- less than two hours before the Attempted Murder -- an interior surveillance camera on the third floor of the Apartment Building captures JOHN DEPASQUALE, the defendant, with the Camo Bag, and in what appears to be the same jacket he was wearing the previous day, meeting

with Suspect-1, MARTIN, and SIMMS.<sup>7</sup> Minutes afterwards, the same camera captures Suspect-1 counting money in the presence of MARTIN and SIMMS.

**Search of DEPASQUALE's Apartment and  
Arrest of DEPASQUALE**

14. Based on my communications with other law enforcement officers, my participation in this investigation, and my participation in a search conducted of the Apartment, pursuant to a search warrant, I know that the following items, among other things, were recovered from a bedroom where JOHN DEPASQUALE, the defendant, and another individual were staying ("Bedroom-1"): (a) a tan and black Taurus-brand handgun (the "Taurus Handgun-1") with a 9mm loaded magazine next to it, (b) a 38-caliber bullet, (c) a digital scale, which based on my training and experience -- and the fact that what appears to be heroin was seized in the next room over -- is an item used frequently by narcotics traffickers to weigh product, (d) \$1,280 in U.S. currency, and (e) a clear plastic bag with multicolor pills which appear to be, based on my training and experience, illicit narcotics. I further know that in another bedroom, next to Bedroom-1, where another male individual ("Individual-2") and female individual were staying, several bundles of suspected heroin, as depicted below, were recovered. In addition, digital scales and another firearm -- a Taurus G2C handgun ("Taurus Handgun-2") -- were also recovered. A photograph of certain of the bundles of suspected heroin is below:



<sup>7</sup> I believe it is Suspect-1, MARTIN, and SIMMS because they are wearing the same distinct clothes they were wearing during the Attempted Murder.

15. Based on my communications with other law enforcement officers and my own participation in this investigation, I know, among other things, that JOHN DEPASQUALE, the defendant, was arrested and, upon being read his *Miranda* rights, waived those rights and agreed to speak with law enforcement officers. I further know that he admitted to the following, in sum and substance:

a. DEPASQUALE met with Suspect-1, MARTIN, and SIMMS,<sup>8</sup> on or about April 19, 2022, at a residence on Cliff Street in Yonkers and received from Suspect-1 approximately five to six guns to sell on consignment. Taurus Handguns -1 and -2 were among the guns received from Suspect-1.

b. DEPASQUALE kept Taurus Handgun-1 for himself and gave Taurus Handgun-2 to Individual-2.

c. DEPASQUALE gave the remaining firearms to the driver of the Black Kia.

d. DEPASQUALE met with Suspect-1, MARTIN, and SIMMS on or about April 20, 2022, inside of the Apartment Building and paid the \$2,500 in connection with the guns received the previous day.

16. Based on my communications with other law enforcement officers and my own participation in this investigation, I know, among other things, that Individual-2 in the Apartment was detained by law enforcement officers. I further know that, upon being read his *Miranda* rights, Individual-2 waived those rights and agreed to speak with law enforcement officers. I further know that he admitted to the following, in sum and substance:

a. The Taurus Handgun-2 found in Bedroom-2 is his, and he received it from JOHN DEPASQUALE, the defendant.

b. The suspected heroin found in Bedroom-2 is his, and that he sells heroin.

17. Based on the foregoing, I believe that JOHN DEPASQUALE, the defendant, along with MARTIN, SIMMS, and Suspect-1 -- who carried out the Attempted Murder -- were all part of the

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<sup>8</sup> DEPASQUALE did not identify MARTIN and SIMMS by name but was shown photographs of both individuals in the distinct clothing they were wearing at the time of the Attempted Murder and identified both as having been at the residence with Suspect-1.



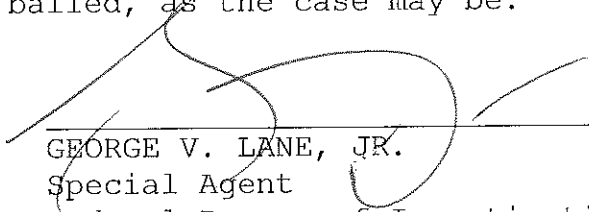
Firearms Trafficking Conspiracy because (1) MARTIN admitted that they all traveled together to New York from Georgia and stayed at Residence-1, (2) the photos of firearms recovered from the Martin Cellphone and Simms Cellphone - including of machine gun-style firearms - are consistent with resale, (3) MARTIN's admission that Suspect-1 sold firearms while in New York, (4) their possession of multiple firearms, (5) DEPASQUALE's admission that he received multiple firearms from Suspect-1 to sell on consignment and that he in fact provided those firearms to other individuals, and (6) DEPASQUALE's admission that he later met with Suspect-1, MARTIN, and SIMMS, as recorded on surveillance video inside of the Apartment Building, to pay them money in connection with the firearms previously received.

**The April 13, 2022 Bulk Purchase of Firearms, Including  
The Simms Handguns and Taurus Handgun-2**

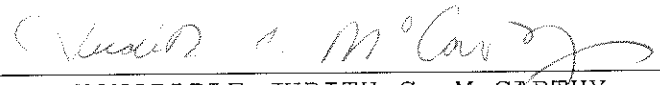
18. Based on my review of a report prepared by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (the "ATF"), I have learned that, on or about April 13, 2022, four handguns were purchased together at a firearms dealer in Georgia (the "April 13 Purchase"). Two of the handguns -- the Simms Firearms -- were recovered from the Deli in the aftermath of the Attempted Murder. SIMMS admitted ownership of the Simms Handguns in a *Mirandized* statement. Taurus Handgun-2 was also part of the April 13 Purchase. Thus, I believe Taurus Handgun-2 -- based on the foregoing information and the admission of JOHN DEPASQUALE, the defendant -- was one of the firearms that was brought up from Georgia for DEPASQUALE.

19. Based on my conversations with an agent with the ATF, I have learned, among other things, that an intelligence analyst with the ATF searched a national database of ATF license holders and there are no records of or entries with respect to an application for or issuance of a firearms license to JOHN DEPASQUALE, the defendant, within New York for the period of April 19, 2022 through April 27, 2022.

WHEREFORE, deponent prays that JOHN DEPASQUALE, the defendant, be imprisoned or bailed, as the case may be.

  
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GEORGE V. LANE, JR.  
Special Agent  
Federal Bureau of Investigation

Sworn to me this  
27th day of April, 2022.

  
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THE HONORABLE JUDITH C. MCCARTHY  
United States Magistrate Judge  
Southern District of New York